

United States District Court
Eastern District of North Carolina
Western Division

5:21-CT-3016

Case No. _____

(To be filled out by Clerk's Office only)

FILED

JAN 15 2020

PETER A. MOORE, JR., CLERK
US DISTRICT COURT, EDNC
DEP CLK

DENNIS BLACKWELL

Inmate Number 0033115

(In the space above enter the full name(s) of the plaintiff(s).)

-against-

COMPLAINT

(Pro Se Prisoner)

Jury Demand?

☒ Yes

☐ No

STATE OF NORTH CAROLINA

ROY A. COOPER III

COUNTY OF PENDER

BRYAN K. KIELLS

(In the space above enter the full name(s) of the defendant(s). If you cannot fit the names of all of the defendants in the space provided, please write "see attached" in the space above and attach an additional sheet of paper with the full list of names. The names listed in the above caption must be identical to those contained in Section IV. Do not include addresses here.)

NOTICE

Federal Rule of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

I. COMPLAINT

Indicate below the federal legal basis for your claim, if known. This form is designed primarily for pro se prisoners challenging the constitutionality of their conditions of confinement, claims which are often brought under 42 U.S.C. § 1983 (against state, county, or municipal defendants) or in a "Bivens" action (against federal defendants).

- ☒ 42 U.S.C. § 1983 (state, county, or municipal defendants)
- ☐ Action under *Bivens v. Six Unknown Federal Narcotics Agents*, 403 U.S. 388 (1971) (federal defendants)
- ☐ Action under Federal Tort Claims Act (United States is the proper defendant; must have presented claim in writing to the appropriate Federal agency and received a notice of final denial of the claim pursuant to 28 U.S.C. § 2401(b))

II. PLAINTIFF INFORMATION

DENNIS BLACKWELL
Name

0033115
Prisoner ID #

PENDER CORRECTIONAL
Place of Detention

P.O. BOX 1058
Institutional Address

BLIRGAN
City

N.C.
State

28425
Zip Code

III. PRISONER STATUS

Indicate whether you are a prisoner or other confined person as follows:

- ☐ Pretrial detainee ☐ State ☐ Federal
- ☐ Civilly committed detainee
- ☐ Immigration detainee
- ☒ Convicted and sentenced state prisoner
- ☐ Convicted and sentenced federal prisoner

IV. DEFENDANT(S) INFORMATION

Please list the following information for each defendant. If the correct information is not provided, it could result in the delay or prevention of service. Make sure that the defendant(s) listed below are identical to those contained in the above caption. Attach additional sheets of paper as necessary.

Defendant 1: STATE OF NORTH CAROLINA
Name
STATE GOVERNMENT
Current Job Title
P.O. BOX 629
Current Work Address
RALEIGH N.C. 27602
City State Zip Code
Capacity in which being sued: ☐ Individual ☐ Official ☒ Both

Defendant 2: ROY A. COOPER III
Name
GVERNOR
Current Job Title
4296 M.S.C.
Current Work Address
RALEIGH N.C. 27699-4294
City State Zip Code
Capacity in which being sued: ☐ Individual ☐ Official ☒ Both

Defendant(s) Continued

Defendant 3: PENDER COUNTY

Name

COUNTY GOVERNMENT

Current Job Title

PENDER COUNTY BLDG.

Current Work Address

City BLIRGAKI State N.C. Zip Code 28425

Capacity in which being sued: ☐ Individual ☐ Official ☒ Both

Defendant 4: BRYAN K. WELLS

Name

WARDEN

Current Job Title

P.O. BOX 1058

Current Work Address

BLIRGAKI N.C. 28425

City

State

Zip Code

Capacity in which being sued: ☐ Individual ☐ Official ☒ Both

V. STATEMENT OF CLAIM

Place(s) of occurrence: N.C. STATE LEGISLATIVE BLDG. AND PENDER
CORRECTIONAL FACILITY

Date(s) of occurrence: UNLAWFUL ASSEMBLY OF N.C.G.S. 14-7.1 TOOK
PLACE IN YEAR 1983

State which of your federal constitutional or federal statutory rights have been violated:

5TH, 8TH AND 14TH AND U.S.C.

State here briefly the FACTS that support your case. Describe how each defendant was personally involved in the alleged wrongful actions, state whether you were physically injured as a result of those actions, and if so, state your injury and what medical attention was provided to you.

FACTS:

N.C. LEGISLATURE UNLAWFULLY ASSEMBLED (4)
CRIMINAL STATUTES INTO N.C.G.S. 14-7.1, WHICH
HAS BEEN USED BY STATE COURTS TO ENHANCE REPEAT
OFFENDER SENTENCES, FROM 1996 THROUGH DATE OF
THIS DOCUMENT.

Who
did what to
you?

PETITIONER HAS BEEN PASSED OVER FOR BARBER-TUB
FROM SEPT. 16, 2020 TO DATE OF THIS COMPLAINT
AND BARBER-TUB WERE GIVEN TO OTHERS WITH LESS
SINORITY AND QUALIFICATIONS, BY PENDER STAFF.

PENDER CORRECTIONAL SUPERINTENDANT BRYAN K.
WELLS FAILED TO COMPLY WITH N.C. GOVERNOR'S
SOCIAL DISTANCING AND REDUCED CAPACITY ORDERS.

What
happened
to you?

PETITIONER'S (3) CONSECUTIVE SENTENCES REACHED
LEVEL OF CRUEL AND UNUSUAL PUNISHMENT.

(3) CONSECUTIVE SENTENCES WERE UNLAWFULLY
ENHANCED BY COURT'S USE OF N.C.G.S. 14-7.1.

PETITIONER WAS DEPRIVED OF GAINED TIME AND OF
MERIT TIME.

PENDER CORRECTIONAL EXPERIENCED (6) DEATHS
AND OVER 218 DEADLY CORONA VIRUS INFECTIONS,
IN (7) MONTH PERIOD, INCLUDING PETITIONER.

When did it
happen to
you?

ON 10-MONTH 26 DAY 2020 YEAR THROUGH DATE
OF THIS COMPLAINT.

PETITIONER TESTED POSITIVE FOR CORONA VIRUS
OCTOBER 26, 2020.

EXECUTIVE ORDERS FOR SOCIAL DISTANCING AND
REDUCED CAPACITY WERE REFUSED MARCH 27, 2020
THROUGH DATE OF COMPLAINT.

Where did it
happen to
you?

AT PENDER CORRECTIONAL FACILITY,
N.C. LEGISLATIVE BLDG. IN RALEIGH NORTH CAROLINA.
AT PENDER CORRECTIONAL FACILITY PROGRAMS BLDG.

IN B-4 DAYROOM REPORTED BY DOCTOR LEWIS.

IN PENDER CORRECTIONAL DORM-B BUNK-2
(4) FEET FROM NEXT BUNK.

What was
your
injury?

PETITIONER'S (3) CONSECUTIVE SENTENCES REACHED LEVEL OF CRUEL AND UNUSUAL PUNISHMENT, BECAUSE HE WAS REQUIRED TO SERVE 2ND AND 3RD SENTENCES IN MIDSOT OF DEADLY CORONA VIRUS PANDEMIC, AFTER TESTING POSITIVE FOR CORONA VIRUS.

PETITIONER HAS BEEN DEPRIVED OF SENTENCE REDUCTIONS, AFTER COMPLETING FOR ASSIGNMENT

PETITIONER'S CIRCUMSTANCES HAVE BECOME SO CHANGE AFTER CONTRACTING CORONA VIRUS, THAT HIS CONTINUED CONFINEMENT WOULD BE INEQUITABLE.

PETITIONER IS CURRENTLY HOUSED IN DORM WITH (2) MAN BLINK BEDS (4) FEET APART, IN VIOLATION OF N.C. GOVERNOR'S SOCIAL DISTANCING AND REDUCED CAPACITY ORDERS, WITH REPORTS OF CORONA VIRUS VICTIMS CONTRACTING VIRUS UP TO (3) OCCASSIONS.

PETITIONER WAS FORCED TO COMPLETE A 8 TO 11 YEAR UNLAWFULLY ENHANCED SENTENCE.

VI. ADMINISTRATIVE PROCEDURES

WARNING: Prisoners must exhaust administrative procedures before filing an action in federal court about prison conditions. 42 U.S.C. § 1997e(a). Your case may be dismissed if you have not exhausted your administrative remedies.

Have you filed a grievance concerning the facts relating to this complaint? ☒ Yes ☐ No

If no, explain why not:

Is the grievance process completed? ☒ Yes ☐ No

If no, explain why not:

VII. RELIEF

State briefly what you want the court to do for you. Make no legal arguments. Cite no cases or statutes.

REPEAL AND DISSOLVE N.C.G.S. 14-7.1.
PAY PETITIONER 7 MILLION DOLLARS COMPENSA-
TORY DAMAGES.
PAY PETITIONER 5 MILLION DOLLARS PUNATIVE
DAMAGES.

VIII. PRISONER'S LITIGATION HISTORY

The “three strikes rule” bars a prisoner from bringing a civil action or an appeal in forma pauperis in federal court if that prisoner has “on three or more occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.” 28 U.S.C. §1915(g).

Have you brought any other lawsuits in state or federal court while a prisoner?

☐ Yes ☒ No

If yes, how many? _____

Number each different lawsuit below and include the following:

- Name of case (including defendants' names), court, and docket number
- Nature of claim made
- How did it end? (For example, if it was dismissed, appealed, or is still pending, explain below.)

This image shows a single sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

IX. PLAINTIFF'S DECLARATION AND WARNING

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending or modifying existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Each Plaintiff must sign and date the complaint and provide prison identification number and prison address.

JANUARY 8, 2021
Dated

X Dennis Blacknell
Plaintiff's Signature

DENNIS BLACKNELL
Printed Name

0033115
Prison Identification #

P.O. BOX 1058 BURGAW N.C. 28425
Prison Address City State Zip Code